Duke University Libraries
Veto message ..
Conf Pam 12mo #87
D99027258%

Conf
Pam
12mo
#87

C616

VETO MESSAGE.

EXECUTIVE DEPARTMENT,
RICHMOND, Feb. 1st, 1862.

To the Confederate Congress :

I return, with my objections, the Bill passed by you, entitled "An Act to provide for granting furloughs in certain cases."

Before proceeding to lay before you the special objections entertained to the provisions of this Bill, it is proper that I should express the firm conviction that it is, from the nature of things, impracticable to administer an army in the field, by statute. The Constitution vests in the Congress, the power "to make rules for the Government, and regulation of the land and naval forces." None can deny the wisdom of this provision, nor the propriety of the exercise of this power, by the Congress, in its full extent; but there is an obvious distinction between making rules for the government of the army, and, undertaking to administer the army by statute.

When rules are established for the regulation of such matters as are in their nature, susceptible of fixed and unvarying application, there can be no impolicy in providing them by statute. Thus, we have by law, fixed guides for organization, for the composition of the different corps, for the number of officers and their grades, for the respective duties assigned to the staff in its several branches and numerous like provisions that remain in force, in all localities, in the presence, as well as the absence, of the enemy, and, uninfluenced by the exigencies of any particular occasion.

But there are other matters which are essentially administrative in their character, and are not susceptible of being determined by the rigid prescriptions of statutes, which executive officers are bound to obey, under all circumstances, and without the exercise of any discretion. Suppose Congress should attempt to fix, by law, of what a camp equipage should always consist, or the precise kind and quality of clothing to be furnished or the exact amount and kind of

transportation to be allowed for each regiment, is it not obvious that these details depend so entirely on time, place and circumstance and are so essentially variable in their character that the uniform compliance with such laws, would be practically impossible. Suppose Congress should establish by law the precise proportion of infantry, cavalry and artillery to be attached to each body of troops in service, this would not be a rule for the Government of the army, but an attempt at a statutory administration of it, which could not but be found impolitic, even if it were practicable.

Now, the act in question, presents precisely the same objectional features. It establishes a rule over which there is no discretionary power under any circumstances whatsoever; by which a commanding General, in the face of superior numbers, and with his capacity for defence taxed to the utmost, may find his forces still further reduced by the action of his subordinate, not only against his consent, but without his knowledge and in ignorance of his necessities and the purposes of their Government. No more striking example could be afforded of the impolicy of such a law, than is presented by our condition at this time. Our armies are in force inferior to the enemy at the two points most vital to the defence of the country. The enlistment of the twelve months men is soon to expire, and, in order to secure their entry for a further term into the service, you have directed that furloughs be granted to them as far as compatible with the safety of the respective commands.

If the bill in question becomes a law, it will at once be necessary to diminish the number of furloughs, which might otherwise be granted, as inducement to re-enlistments, and, to that extent, the attainment of this most desirable object must be obstructed. From the West and from the South, from many and important points, urgent calls for reinforcement are received by the Department of War, which it is not possible to satisfy. At this crisis, without any check or control by commanding Generals, five per cent. of their effective forces would be withdrawn under the provisions of this bill. With conflicts impending against an enemy greatly our superior in numbers, our safety is dependent on keeping in the field every effective man that can be furnished with a weapon; this bill, therefore, it seems to me, is most inopportunely presented.

If, from these general objections, we turn to the details of the bill, other considerations are presented which would

alone prevent my giving it approval. They may be stated briefly as follows, viz:

First. The furlough for disability is to be granted upon the surgeon's certificate, not of the vital necessity for leave of absence, but of the surgeon's opinion that the patient's "health would be improved by a temporary sojourn at home." It is plain that every man in the army, to whose health camp life was thus believed to be detrimental, could at once demand a furlough under this provision.

Second. The Colonel's power to grant a furlough on such a certificate, as is above mentioned, is without the check or control of higher authority, and is unlimited as to time and to number of cases.

Third. Any soldier, that can get the certificate of any hospital surgeon, can be sent home on furlough or discharged without the knowledge or consent of any of his officers, either company or regimental. The surgeon has only to certify that the soldier "is too remote from his commanding officer to procure his certificate for a furlough or discharge without inconvenience and delay."

When troops are in the field, it is *always* true of a soldier in hospital, that the commanding officer's certificate cannot be obtained "without inconvenience and delay," so that the soldier, absent from camp, can *always* get a furlough or discharge without the knowledge of his commander.

Fourth. The large number of soldiers, that will be constantly traveling on the railroads on the proposed system of a ten days' furlough for five per cent. of all the effective men, together with the sick leaves provided for, will form an average of probably not less than fifteen or twenty thousand men in constant movement. This would occupy the transportation facilities, already much too limited, to such an extent as seriously to impair the movement of troops and supplies.

In whatever aspect the proposed legislation is contemplated, I cannot view it otherwise than as dangerous to the public safety, and I most earnestly recommend that, in taking it again into consideration, Congress will weigh any possible advantage that can result from this measure against the disasters, that are not only the possible, but, as it appears to me, the probable results of its adoption.

JEFFERSON DAVIS.

A BILL

To be entitled an Act to provide for Granting Furloughs in certain cases.

Section 1. *The Congress of the Confederate States of America do enact*, That whenever the surgeon attached to any regiment, battalion or separate post shall certify that any private or non-commissioned officer of such regiment, battalion or separate post is incapable of performing military duty by reason of sickness, and that the health of said private or non-commissioned officer will, in his opinion, be improved by a temporary sojourn at home, the colonel or other officer commanding such regiment, battalion or separate post, may grant a furlough to said private or non-commissioned officer, for such time as may be thought proper by said colonel or other commanding officer: *Provided*, That upon the certificate of the principal surgeon of any Government hospital, that any sick or disabled soldier is too remote from his commanding officer to procure his certificate for a furlough or discharge, without inconvenience and delay, such soldier may be furloughed or discharged upon the recommendation of such surgeon, by the commandant of the nearest post.

Sec. 2. Whenever it shall appear from the written statement of any private or non-commissioned officer of any regiment, battalion or separate post, approved by the captain or other officer commanding the company to which said private or non-commissioned officer is attached, that it is indispensable to the pecuniary or family interest of said private or non-commissioned officer that he should visit home, the colonel or other officer commanding such regiment, battalion or separate post, may, in his discretion, grant a furlough to said private or non-commissioned officer for a period not exceeding ten days, with an allowance of such additional time as may be required for him to reach home and return to his post: *Provided, however*, That said colonel or other commanding officer shall not grant furloughs, for the cause and in the manner stated in this section, to such

number as to exceed, at any time, five per cent. of the force actually under his command.

SEC. 3. In all cases where furloughs shall be granted under this act, the notice of such furlough, required by existing regulations, shall be given.

CONGRESS, JANUARY 16, 1862.

Read first and second times.

JANUARY 22, 1862.

Read third time and passed,

J. J. HOOPER,
Secretary.

Digitized by the Internet Archive
in 2011 with funding from
Duke University Libraries

http://www.archive.org/details/vetomessage02conf

ɔ.115

Permalife.
pH 8.5